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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,960	12/22/2003	Anthony J. Lamela	15211	9369

37414 7590 01/04/2005

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER

YEAGLEY, DANIEL S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,960

Applicant(s)

LAMELA ET AL.

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2 and 4 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mather et al '757 in view of Caswell '656.

Mather discloses a vehicle (skid steer vehicle 10; figure 1) having a plurality of hydraulic pumps coupled to and driven by an engine 81, a chassis comprising a chain tank (drive housing 70) having a left and right side 72 and extends along a longitudinally extending axis, wherein the chassis includes first chain links 90 operatively connected to at least one left-side motor 88 and the wheels 20 of a left front and a left rear suspension and includes second chain links 90 operatively connected to at least one right-side motor 89 and the wheels 20 of a right front and a right rear suspension (column 4), wherein control arms of the four suspensions extend laterally away from the vehicle, the two left side suspension control arms extending leftwardly and laterally away from the left side of the chassis, and the two right side control arms extending rightwardly and laterally away from the right side of the chassis (column 3), wherein the chassis has a generally vertically and longitudinally extending left side wall and a generally vertically and horizontally extending right side wall, the left front and left rear control arms coupled to the left sidewall and the right front and right rear control arms coupled to the right sidewall as broadly claimed; such that figures 4 and 5 show the at least one left-side motor 88 fixed to the

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left side 72 of the chain tank 70 and the at least one right side motor 89 fixed to the right side 72 of the chain tank, the left-side motor drivingly coupled via a left drive member to two wheels of the left front and left rear suspensions and the right-side motor drivingly coupled via a right drive member to the two wheels of the right front and the right rear suspensions, wherein the left and right drive members remain in the same orientation relative to the left-side motor and the right-side motor respectively, *but* failed to disclose a four vehicle wheel suspensions having a control arm that is pivotally coupled to the chassis to pivot the wheel suspension about a longitudinally extending axis, wherein the left and right drive members remain in the same orientation relative to the left-side motor and the right-side motor, even as the control arms pivot with respect to the chassis, and wherein each control arm of the four suspension means includes a damper means comprised of a strut coupled to the wheel and the control arm which includes a spring for supporting the vehicle and wherein the vehicle includes at least one steering actuator as claimed.

Caswell shows a skid steer vehicle having a drive housing with a left and right side extending along a longitudinally extending axis with drive means operatively connected to the left-side and left wheels of a left front and a left rear pivotal suspension means and includes second drive means operatively connected to the right-side and wheels of a right front and a right rear pivotal suspension means, wherein the control arms are pivotally coupled to the chassis for pivoting about a horizontal longitudinally extending axis and extend laterally away from the vehicle which would allow the left and right drive members of the longitudinal extending drive means to remain in the same orientation relative to the left-side and the right-side even as the control arms pivot with respect to the chassis as best understood, and wherein each pivotal control arm of the four suspension means includes a damper means comprised of a spring strut

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12 coupled to the wheel and the control arm (figure 2, column 2) which further includes at least one steering actuator 26 which simultaneously steers the front wheels to the left or right while simultaneously steering the rear wheels in the opposite direction to the right or left (figure 1) as broadly claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the chain driven skid steer vehicle of Mather chain drive vehicle with modified or alternative suspension arms as suggested by Caswell being independently pivotal control arms coupled to the chassis in order to enhance the suspension utilizing independent pivotal suspension arms which is well known in the vehicle suspension art for increased suspension performance and traction to enhance the vehicles terrain versatility to negotiate undulating terrain as suggested by Caswell and would have been obvious to one of ordinary skill in the art to have further modified the chain driven skid steer vehicle of Mather with a steering actuator in order to simultaneously steer the front wheels in a direction opposite the direction of the rear wheels as further suggested by Caswell to further enhance the maneuverability of the vehicle by incorporating a steering actuator for four wheel steering as taught by Caswell.

3. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mather et al '757 as modified by Caswell '656 in further view of Thibodeau '051.

Mather as modified by Caswell discloses a skid steer vehicle having a chassis with a chain tank with drive members and chain links operatively connected to left and right-side motors fixed to a chassis and a plurality of hydraulic pumps driven by an engine, such that the left and right drive members remain in the same orientation relative to the left and the right-side

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motors, and wherein the wheels of a left side and the wheels of a right side include control arms extending laterally away from the vehicle chassis and being pivotally coupled to the chassis as modified by Caswell to pivot the wheel suspensions about a horizontal longitudinally extending axis with a spring strut means; whose left and right drive members also remain in the same orientation relative to the left-side and the right-side, even as the control arms pivot with respect to the chassis, *but* failed to disclose a hydraulic steering pump and a suspension control arm coupled to the chassis at a point forward the strut and at a second point rearward the strut as claimed.

Thibodeau shows a skid steer vehicle having a chain driven right and left drive members drivingly coupled to a motor and housed in a chain tank, such that the drive members also remain in the same orientation relative to the left-side and the right-side of the motor, even as control arms pivot with respect to the chassis as broadly claimed which further utilizes a hydraulic steering pump 226 and discloses a suspension means having a pivotal control arm with a strut (figure 7) being coupled to a wheel and the chassis by incorporating two coupling points, one point forward the strut and a second point rearward the strut as broadly claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified the chain driven skid steer vehicle of Mather chain driven vehicle as modified by the pivotal control arms as suggested by Caswell with further modification of the control arms utilizing two or more coupling points to couple the control arm to the chassis as suggested by Thibodeau in order to more securely pivot the control arm from the chassis or simple as an alternative fastening means known in the art to pivotally suspend the control arm from the chassis about a horizontal axis as taught by Thibodeau and further would

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have been obvious to one of ordinary skill in the art to have incorporated an additional hydraulic pump; such as a steering pump as suggested by Thibodeau as a known means to control the steering of the vehicle utilizing a steering pump as taught by Thibodeau.

Response to Arguments

4. Applicant's arguments with respect to claims 1 – 8 have been considered but are moot in view of the new ground(s) of rejection as now claimed. Mather discloses a skid steer vehicle having a left and right side chain driven drive means which remain in the same orientation relative to the left and right motors and drive members and as combined with the skid steer vehicle of Caswell incorporating the features of a four vehicle suspension and at least one steering actuator configured to simultaneously steer the front wheels in one direction while steering the rear wheels in an opposite as suggested by Caswell are considered readable on the claims as broadly claimed in combination and in further obvious combination with the skid steer vehicle of Thibodeau which clearly shows the features of a hydraulic steering pump and a suspension control arm which utilizes a control arm coupled to the chassis at a point forward the strut and at a second point rearward the strut as claimed and is considered readable on the claims as now claimed as viewed by the examiner as being obvious to one of ordinary skill in the art to have combined these known features of the skid steer vehicles as stated above. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is 703-305-0838. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.


KEVIN HURLEY
PRIMARY EXAMINER